

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Commercial Spectrum)	WT Docket No. 05-211
Enhancement Act and Modernization of)	
The Commission's Competitive Bidding Rules)	

COMMENTS OF LEAP WIRELESS INTERNATIONAL, INC.

Leap Wireless International, Inc. and its Cricket subsidiaries (collectively, "Leap") submit these reply comments in response to the above-captioned Further Notice of Proposed Rulemaking ("Further Notice").¹

There is a strong consensus in this proceeding that the nation's largest incumbent CMRS spectrum holders should not be permitted to acquire even more spectrum at a discount through designated entity ("DE") structures. To the extent that Congress has commanded the Commission to "avoid[] excessive concentration of licenses" and to "disseminat[e] licenses among a wide variety of applicants,"² Leap reiterates its proposal that no carrier be permitted to acquire at auction more than an aggregate amount of 80 MHz of combined CMRS and AWS spectrum in a situation where the carrier's CMRS service area contains a significant geographic overlap with an AWS license to be auctioned. As Council Tree observes, "no objective spectrum aggregation limit applies to the AWS-1 bands," which will only facilitate the trend over "the last several years" of large incumbent carriers consolidating tremendous amounts of spectrum using

¹ *In the Matter of Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, WT Docket No. 05-211, Further Notice of Proposed Rulemaking, WT Docket No. 05-211 (rel. Feb. 3, 2006).

² 47 U.S.C. 309(j).

the DE program and other acquisitions at auction and in the aftermarket.³ The Commission can and should remedy that problem in this proceeding by adopting a general spectrum aggregation restriction.

Similarly, there is widespread support among small and regional operators, as well as significant wireless financial players, for Council Tree's DE reform proposals.⁴ Of course, the wireless supercarriers that would be excluded from partnering with qualified DE entities in-region take an opposing view. Leap again urges that the Commission adopt rules consistent with these proposals.⁵

Finally, there is a universal sentiment expressed in the record that whatever rule changes are adopted in connection with this proceeding, they be announced to bidders and financial sources reasonably in advance of the AWS auction short-form deadline. To do otherwise would inject a catastrophic level of uncertainty from the standpoint of running an efficient, robust and successful auction. Leap urges the Commission to announce final rules by the end of March 2006 to allow participants in auction 66 adequate time to obtain necessary financing and to ensure uniform compliance with any rule modifications.

³ Comment of Council Tree Communications, Inc. at 24.

⁴ *See, e.g.*, Comments of Centennial Communications, Inc.; Joint Comments of Columbia Capital LLC, MC Venture Partners and TA Associates, Inc.; Comments of Leap Wireless International, Inc.; Comments of Madison Dearborn Partners, LLC; Comments of MetroPCS Communications, Inc.; Comments of NTCH, Inc. d/b/a Cleartalk; Comments of United States Cellular Corporation.

⁵ *See id.* at 33-55.

Respectfully submitted,

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